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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,174	07/26/2001	Jochen Burgdorf	AP9974/64098-878	7113

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EXAMINER

BURCH, MELODY M

ART UNIT          PAPER NUMBER

3683

DATE MAILED: 04/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

SK

**Advisory Action**

Application No.

09/916,174

Applicant(s)

BURGDORF ET AL.

Examiner

Melody M. Burch

Art Unit

3683

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 April 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a)  The period for reply expires 3 months from the mailing date of the final rejection.
- b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

- 1.  A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
- 2.  The proposed amendment(s) will not be entered because:
  - (a)  they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b)  they raise the issue of new matter (see Note below);
  - (c)  they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d)  they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see number 5.

- 3.  Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
- 4.  Newly proposed or amended claim(s) \_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
- 5.  The a)  affidavit, b)  exhibit, or c)  request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
- 6.  The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
- 7.  For purposes of Appeal, the proposed amendment(s) a)  will not be entered or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 19-43.

Claim(s) withdrawn from consideration: \_\_\_\_\_

- 8.  The proposed drawing correction filed on \_\_\_\_\_ is a)  approved or b)  disapproved by the Examiner
- 9.  Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 10.  Other: \_\_\_\_\_

CHRISTOPHER P. SCHWARTZ  
PRIMARY EXAMINER

Continuation of 3. Applicant's reply has overcome the following rejection(s): Applicant's remarks have overcome the drawing objection, the 112 first rejections of claims 34-36, 41, and 42, and the 112 second rejections of claims 19, 28, 30, and 39-43. Although Examiner acknowledges Applicant's attempts to resolve the 112 second issues with respect to the limitations regarding the actuating device(s), it is noted that the amendments raise a new issue as explained below.

Continuation of 5. does NOT place the application in condition for allowance because: the elimination of the phrases "an indentation between the actuating devices" in lines 11-12 of claim 39 and "between the two actuating devces" in line 15 of claim 39 and in line 2 of claim 21 broadens the claim language and does not simply the issues. Examiner particularly notes that claims 21 and 39 originally recited the first leg portion of the spring assembly being supported on the first brake lining "in a circumferential direction between the two actuating devices". The amendment of paper no. 9 changes the limitation to broadly recite the first leg portion being supported on the first brake lining "in a circumferential direction". Examiner interpreted the phrase "between the two actuating devices" to be an area occupied by such elements as the top portions of element 10 and the middle portions of elements 50 as shown in figure 3 of the Ogasawara et al. reference. Since the first leg portion 102 of the spring was outside or above that area, Examiner did not consider the first leg portion of the spring to be "between the two actuating devices". Also, since the first leg portion of the spring assembly 34 of Ogasawara et al. was interpreted as being axially between the actuating devices (left and right elements 70) as shown in figure 3 of Ogasawara et al. compared to the defined circumferential arrangement defined by Applicant in figure 2a of the instant application, Examiner did not consider the first leg portion of the spring to be "circumferentially" between the two actuating devices. In light of the interpretations, it is clear that the elimination of the recitation "between the two actuating devices" raises a new issue since the Ogasawara et al. reference shows the first leg portion shown in the area of element 102 of the spring assembly 34 being supported on the first brake lining 50 in a circumferential direction with respect to disc 10 as shown figure 4.

*mmB*  
*4/23/03*